

A. G. Contract No. KR-89-0479--TRD
ECS File: JPA-89-27
Project: Traffic Surveys

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
CITY OF SCOTTSDALE

THIS AGREEMENT is entered into June 19, 1989,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the State) and the City
of Scottsdale, acting by and through its City Council (Local
Agency).

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by resolution,
a copy of which is attached hereto and made a part hereof, resolved
to enter into this agreement and has delegated to the undersigned
the authority to execute this agreement on behalf of the State.

2. Local Agency is empowered by Arizona Revised Statutes
Section 48-572 , and City Charter Section 3-1 to enter into this
agreement and has by resolution, a copy of which is attached hereto
and made a part hereof, resolved to enter into this agreement and
has authorized the undersigned to execute this agreement on behalf
of Local Agency.

3. Local Agency requests the State to perform certain work
and prepare certain documents required by the Federal Highway
Administration to qualify certain highway, bridge and railroad
grade crossing projects for and to receive Federal funds. Such
work, consisting of, but not specifically limited to, the
development and preparation of environmental documents relating to
categorical exclusions; review of reports, designs, plans, maps

NO. <u>13990</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>7-3-89</u>
<u>Jim Sheenway</u> Secretary of State
By <u>Bl. Vermillion</u>

and specifications; geologic materials testing and analysis; traffic surveys; and such other related tasks essential to the achievement of the aforementioned objective.

4. The only interest of the State in performing the work embraced herein is in the acquisition of Federal funds for the use and benefit of Local Agency by reason of Federal law and regulations under which funds for the projects are authorized to be expended.

5. The estimated cost of the work embraced herein is \$1,000.00, which sum Local Agency is willing to transmit and deposit with the State for the purpose of funding the cost of the work performed by the State.

II. SCOPE OF WORK

IN CONSIDERATION of the covenants of Local Agency herein contained the State Agrees:

1. That subsequent to the initial deposit by Local Agency of the sum of \$1,000.00, it will begin performance of the work embraced herein that is required by the Federal Highway Administration to bring the projects to the construction stage.

2. That it will furnish all labor, materials, and equipment necessary to complete the work embraced herein when such resources are available.

3. That it will provide Local Agency a quarterly statement of account identifying the projects for which work has been performed, the type and amount of expenditures, and the account balance. No statement will be provided if there is no activity on the account.

4. Perform special surveys and reports relating to public improvement projects administered by the City on an as-needed basis. These surveys and reports shall consist of, but not be specifically limited to; roadway noise monitoring and analysis; roadway corridor air quality monitoring and analysis; traffic volume surveys and analysis; and such other professional services which may be requested by the City for the purpose of developing or analyzing public improvement projects. Special surveys and reports will be performed only upon specific written (letter) request by the City and will be subject to State's exclusive right to decline performance of a requested

service for any reason. The fee for a requested survey or report shall not exceed the City's authorized Bid Limit, unless the requested survey or report is authorized by the City Council under separate action, prior to commencement of the work by State.

IN CONSIDERATION of the covenants of the State herein contained Local Agency agrees:

1. That it will provide the State with a request to perform the necessary work on a project by project basis.

2. That it will deposit with the State the sum of \$1,000.00, all or any part of which will be used by the State to fund the cost of performing the work embraced herein.

3. That the cost of the work embraced herein will be borne wholly by Local Agency without State or Federal funds.

4. That it will deposit with the State additional funds as may be required to complete the work herein embraced. Such additional deposits will be made upon request of the State when the funds in the account have been depleted, or when the account balance is so low that funds for the cost of anticipated or ongoing work are not expected to be sufficient to cover the State's expenditures.

5. That the State will not be obligated to perform the work embraced herein or incur expenditures associated with such work when labor, materials and equipment are not available.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. Local Agency assumes full responsibility for the design, plans, specifications, reports, testing, and the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and any claims. It is understood and agreed that the State's participation is confined solely to performing certain work necessary to qualify projects for federal funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of Local Agency and that Local Agency hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any

other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, Local Agency, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees. When any above cost, damage or other damage occurs as aforesaid, the local agency assumes the burden of proof that the above activity, condition or event did not cause such cost, damage or other damage.

2. The cost of the work covered by this Agreement shall be borne by Local Agency, but should some unforeseen condition or circumstance increase the cost of the work to be performed by the State in excess of the amount shown in the recital, the State shall not be obligated to incur any expenditure in excess of the Local Agency's deposit.

3. That this agreement shall remain in force for a period of one year from the effective date and will be automatically renewed for successive periods of one year unless terminated earlier by either Local Agency or the State upon thirty days written notice of that intent.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. This agreement shall become effective upon filing with the Secretary of State.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

To the State at:

Arizona Department of Transportation
Engineering Consultants Services
206 S. 17th Avenue - 118E
Phoenix, Arizona 85007

To Local Agency at:

Mr. Jorge Carrasco
City Manager
City of Scottsdale
3939 Civic Center Plaza
Scottsdale, AZ 85251


Or elsewhere as either party may from time to time designate by written notice to the other.


8. Attached hereto and incorporated herein is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF SCOTTSDALE

STATE OF ARIZONA
Department of Transportation


By 
HERBERT R. DRINKWATER
Mayor

By 
for GARY K. ROBINSON
Chief Deputy State Engineer

Attest

Review
City of Scottsdale

By 
Deputy City Clerk

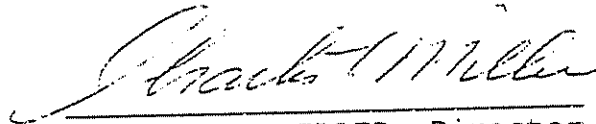
By 
THOMAS J. WILSON
City Attorney

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RESOLUTION

BE IT RESOLVED on this 9th day of December 1988, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Scottsdale for the purpose of establishing a survey account.

THEREFORE, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.



CHARLES L. MILLER, Director
Arizona Department of
Transportation

RESOLUTION NO. 3176

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SCOTTSDALE, MARICOPA COUNTY, ARIZONA,
AUTHORIZING THE MAYOR TO ENTER INTO
INTERGOVERNMENTAL AGREEMENTS WITH THE ARIZONA
DEPARTMENT OF TRANSPORTATION

WHEREAS, the City of Scottsdale is desirous of entering
into Intergovernmental Agreements with the Arizona Department of
Transportation for the purpose of securing bridge inspections,
traffic surveys, and engineering services for the benefit of the
City.

WHEREAS, the City of Scottsdale is authorized pursuant
to Arizona Revised Statutes and City Charter to enter into
Intergovernmental Agreements and to contract for professional
services.

NOW THEREFORE BE IT RESOLVED by the Council of the City
of Scottsdale, Arizona, that the Mayor is authorized to execute the
attached Agreements on behalf of the City of Scottsdale and Al
Dreska is the City's authorized administrator of these Agreements.

PASSED AND ADOPTED by the Council of the City of
Scottsdale this 19th day of June, 1989.


Herbert R. Drinkwater, Mayor

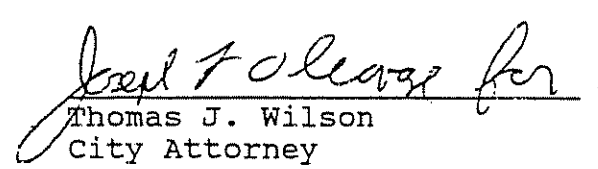
ATTEST:

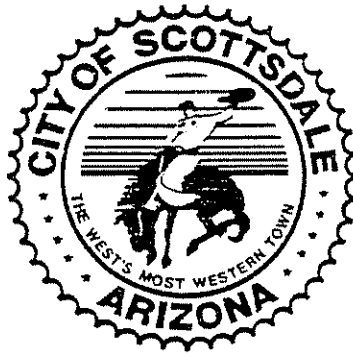
Mark G. Mazzie, City Clerk

By:


~~Deputy~~ City Clerk

REVIEWED:


Thomas J. Wilson
City Attorney



Office of the
CITY ATTORNEY
(602) 994-2405

June 6, 1989

Arizona Department of Transportation
Local Government Services
206 South 17th Ave., Suite 216E
Phoenix, Arizona 85007

RE: A. G. Contract No. KR-89-0479-TRD
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To Whom it May Concern:

I am an Assistant City Attorney with the City of Scottsdale, and I have reviewed the proposed intergovernmental agreement between the City of Scottsdale and the State of Arizona regarding the above numbered and titled project. The City of Scottsdale has the authority to enter into this agreement pursuant to Arizona Revised Statute §48-572 and provisions of the Scottsdale City Charter, Article I, Section 3-1. A review of the agreement also shows it to be in proper form.

Very truly yours,

Joseph L. Olcavage
Assistant City Attorney

JLO:rmg



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

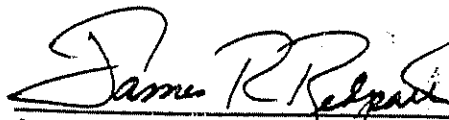
DETERMINATION

A. G. Contract No. KR-89-0479-TRD, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 30th day of June, 1989.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division